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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,379	03/03/2004	Giancarlo Piretti	Q80158	3496

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EXAMINER

BURNHAM, SARAH C

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,379

Applicant(s)

PIRETTI, GIANCARLO

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for foreign priority based on application number TO2003A000152 filed in Italy on March 3, 2003. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claims 6-7 and 12 are objected to because of the following informalities: In claims 6, lines 3-5, the phrase "a transverse rod rotatable relative to the base structure around a transverse axis and associated to a transmission mechanism" is recited. For the sake of clarity, it appears as if the phrase "associated to" should be replaced with the phrase - - associated with - -. Claim 7 is objected to as being dependent upon an objected base claim. Claim 12 also recites a transmission rod "associated to a rotatable actuation sleeve" (line 5). Again, it appears as if the phrase "associated to" should be replaced with the phrase - - associated with - -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The followings words/phrases lack sufficient antecedent basis:

- the distance (claim 1, line 10)
- the operation (claim 2, line 4)
- the load (claim 4, lines 5-6)
- the oscillating motions (claim 9, lines 4-5; claim 15, lines 3)
- the user (claim 10, line 3; claim 12, line 6)
- the vertical direction (claim 11, lines 3-4)
- the longitudinal direction (claim 12, line 3; claim 14, line 2)
- the height (claim 13, line 2)
- the longitudinal motion (claim 15, lines 1-2)

Claims 3, 5-8 and 16 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-2 and 8-9 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Schrewe (5,584,533). Schrewe discloses a chair (1), in particular an office chair, comprising: a base structure (2), a seat support structure (6) articulated to the base structure around a transverse axis (5), an adjustable elastic device (15) to apply an elastic force between the base structure (2) and the seat support structure (6), an adjustment device (10a)(13)(14)(16) which can be operated manually to vary the distance between said adjustable elastic device (15) and said transverse axis (5).

With respect to claim 2, a resting position of the seat (position A, shown in Figure 2), said adjustable elastic device does not apply force to the seat support structure (6), so that the operation of the said adjustment device (10a)(13)(14)(16) in said resting position of the seat is carried out without any elastic reaction force acting on the adjustable elastic device (15).

With respect to claim 8, a backrest support structure (10b)(10c) is articulated to the base structure (2) around a second transverse axis (14) parallel to the axis of articulation (4) between the seat support structure (6) and the base structure (2).

With respect to claim 9, at least one connecting rod (10b) with its ends articulated respectively to the seat support structure (6) at picot point (8) and to the backrest support structure (10c), so that the oscillating motions of the seat support structure (6) and of the backrest support structure (10b)(10c) about the respective axes are mutually synchronized.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Schrewe (5,584,533) in view of Miotto (6,120,096). As disclosed above, Schrewe reveals all claimed elements with the exception of a stationary elastic device mounted between the seat support and the base structure.

Miotto teaches to the use of a pair of stationary springs (8a)(8b) to bias a seat support member (13) and a base structure (2) into a resting position.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a stationary elastic device to act between the seat support structure and the base structure in addition to the adjustable elastic device. Such a modification would ensure a more stable support of the user seated in the chair given that the pressure would be spread over several resilient elements.

9. Claims 10-12 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Schrewe (5,584,533) in view of Britain et al. (5,765,914). As disclosed above, Schrewe reveals all claimed elements with the exception of a locking device.

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With respect to claim 10, Britain et al. discloses a locking device (28) used to lock a seat support structure (6) with respect to a base structure (30). With respect to claim 11, said locking device comprises a locking pivot (29) borne by the seat support structure (6) and movable in the vertical direction relative to the base structure (3), the locking device (28) comprising a locking lever (30) destined to cooperate with a plurality of annular grooves (36) formed on said locking pivot (29). With respect to claim 12, the locking lever (30) is connected to a longitudinal transmission rod (42) movable in the longitudinal direction as seen in Figure 2, between a locking position in which the locking lever (30) is engaged in a groove (36) formed in the pivot member (29) and an unlocking position in which the lever (30) is disengaged from a groove (36), and associated to a rotatable actuation sleeve (101) operated manually at knob (43) by the user.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a locking device as taught by Britain et al. to the oscillating seat structure revealed by Schrewe. Such a locking device would allow a seat occupant to remove pressure from their calves required to maintain the seat in a comfortably tilted position.

10. Claims 13 is rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Schrewe (5,584,533) in view of Miotto (6,213,552). As disclosed above, Schrewe reveals all claimed elements with the

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exception of device for adjusting the height of the base structure and a seat movable in the longitudinal direction relative to the seat support.

Miotto et al. discloses a device for adjusting the height (32) of the base structure (12) that includes a rotatable sleeve (34) associated to a transmission rod (33) co-operating with a command member (64) of the gas piston.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add the height adjustment mechanism taught by Miotto to the oscillating seat disclosed by Schrewe. Gas cylinder height adjustments mechanisms are readily known in the art as a means to add height adjustability to an office chair.

11. Claims 14-15 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Schrewe (5,584,533) in view of Johnson et al. (US 2004/0155502). As disclosed above, Schrewe reveals all claimed elements with the exception of a seat movable in the longitudinal direction relative to the seat support structure wherein the longitudinal motion of the seat is synchronized with the oscillating motion of the seat support structure.

Johnson teaches the use of a seat (24) that is "slidably coupled" (paragraph [0020]) to a seat support structure (22), wherein the longitudinal motion of the seat is synchronized with the oscillating motion of the seat support structure (22).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to create a sliding relationship between the seat and the seat support structure. By allowing for this sliding motion, as an occupant leans back in the chair, the

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occupant is able to maintain their center of gravity over the pedestal bottom creating a more stable seating environment (paragraph [0031]).

Allowable Subject Matter

12. Claims 4-7 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Paquette (4,013,257); Wild (6,572,191); Piretti (6,382,723); Davis (357,183); Davis (343,626); Hamilton et al. (2,729,273); Hollington et al. (5,192,114); Golynski et al. (5,464,274); Hsu (5,664,834) and Bock (6,709,056).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

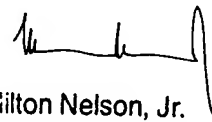
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB

October 27, 2004



Milton Nelson, Jr.
Primary Examiner